IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

CRL.A.No. 334 of 1999()

ST.582/1998 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM

.....

APPELLANT/COMPLAINANT:

V.T.RADHAKRISHNAN, S/O.NEELAKANDAN,
L.I.C.AGENT, VALIYATHODI, POOKKOTTUR.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENT/ACCUSED:

P.BHASKARAN, S/O.KRISHNAN, KAVUNGALAPARAMBA
VEEDU, CHENNATH ROAD, MUNDUPARAMBA.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY, J.

CRL.APPEAL No. 334 of 1999

Dated this the 6th day of December, 2006

Judgment

Appellant filed a complaint under section 138 of the Negotiable Instruments Act. The accused was acquitted for the absence of the complainant. On going through the order, it is seen that acquittal of the accused under section 256 (1) of the Code of Criminal Procedure was not done mechanically, but, with application of mind. The order reads as follows:

> "Today, when the case was called, complainant absent applied. Application rejected. Accused present. From27.6.1998 onwards the case is posted for evidence. Every time counsel prays time. Last time also complainant absent, applied. Application allowed with specific direction that both parties shall be present.
>
> Today when the case is taken up, complainant absent applied. No bona fide in the petition. No medical certificate produced. Hence, application rejected. Accused acquitted u/s.256 (1) Cr.P.C."

I see no ground to interfere in the above order as the magistrate was fully justified in acquitting the accused.

I also note that notice in the appeal was ordered on 14.6.1999. So far, no steps were taken to serve notice. There is no merit in the appeal. Appeal dismissed.

J.B.KOSHY
JUDGE

vaa

J.B. KOSHY, J.

CRL.APPEAL No.334/99

Judgment

Dated:6th December, 2006